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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91189023
Party	Defendant Sarkis Avakian
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Attachments	Answer.pdf ( 5 pages )(14521 bytes )

UNITED STATES PATENT & TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD

WHATABURGER PARTNERSHIP	)	
	)	
Opposer,	)	Mark: WHATTA WING!
	)	Serial No.: 77/494,179
v.	)	Published: 11/04/2008
	)	
SARKIS AVAKIAN	)	
	)	Opposition No. 91189023
Applicant.	)	
	)	
	)	

**ANSWER**

Applicant Sarkis Avakian (“Applicant”) for its Answer to the Notice of Opposition filed by Whataburger Partnership (“Opposer”) in the above-captioned matter response a follows:

1. Applicant states that Paragraph 1 of the Notice of Opposition refers to documents which speak for themselves. Applicant is otherwise without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 1 and therefore denies same and calls for strict proof thereof.

2. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice of Opposition, and therefore denies same and calls for strict proof thereof.

3. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 3 of the Notice of Opposition, and therefore denies same and calls for strict proof thereof.

4. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 4 of the Notice of Opposition, and therefore denies same and calls for strict proof thereof.

5. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 5 of the Notice of Opposition, and therefore denies same and calls for strict proof thereof.

6. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 6 of the Notice of Opposition, and therefore denies same and calls for strict proof thereof.

7. Applicant states that Paragraph 7 of the Notice of Opposition refers to documents which speak for themselves. Otherwise, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 7 and therefore denies same and calls for strict proof thereof.

8. Applicant states that Paragraph 8 of the Notice of Opposition refers to documents which speak for themselves. Otherwise, Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 8, and therefore denies same and calls for strict proof thereof.

9. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 9 of the Notice of Opposition, and therefore denies same and calls for strict proof thereof.

10. Applicant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 10, and therefore denies same and calls for strict proof thereof.

11. Applicant admits that he uses and has applied to register the Trademark WHATTA WING! in connection with restaurant services.

12. Paragraph 12 of the Notice of Opposition states a legal conclusion to which no response is required. To the extent that Paragraph 12 states factual allegations or otherwise requires a response, Applicant denies each and every allegation therein.

13. Paragraph 13 of the Notice of Opposition states a legal conclusion to which no response is required. To the extent that Paragraph 13 states factual allegations or otherwise requires a response, Applicant denies each and every allegation therein.

14. Paragraph 14 of the Notice of Opposition states a legal conclusion to which no response is required. To the extent that Paragraph 14 states factual allegations or otherwise requires a response, Applicant denies each and every allegation therein.

15. Paragraph 15 of the Notice of Opposition states a legal conclusion to which no response is required. To the extent that Paragraph 15 states factual allegations or otherwise requires a response, Applicant denies each and every allegation therein.

16. Paragraph 12 of the Notice of Opposition states a legal conclusion to which no response is required. To the extent that Paragraph 15 states factual allegations or otherwise requires a response, Applicant denies each and every allegation therein.

AFFIRMATIVE DEFENSES

1. Opposer's request for relief is barred by the affirmative defense of unclean hands.
2. Opposer's request for relief is barred by the affirmative defense of equitable estoppel.
3. Opposer's request for relief is barred by the affirmative defense of waiver.
4. Opposer's request for relief is barred for lack of standing.
5. Opposer's request for relief is barred because Opposer fails to state claim upon which relief can be granted.

Applicant hereby reserves its right to assert any and all other defenses as appropriate as they present themselves through the course of this proceeding.

Respectfully submitted,

Sarkis Avakian

By his Attorneys,

Dated: April 6, 2009

/Mark S. Puzella/  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served on April 6, 2009, upon counsel of record for Applicant by first class mail, postage prepaid, addressed to:

Christopher Kelley  
Wiley Rein LLP  
1776 K Street NW  
Washington, DC 20006

/Mark S. Puzella/